

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Steven Almedo,	)	
	)	C/A No. 2:11-389-MBS-BHH
Petitioner,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
Willie Eagleton,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Steven Almedo is an inmate in custody of the South Carolina Department of Corrections. On February 17, 2011, Petitioner, proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pretrial handling.

This matter is before the court on motion for summary judgment filed by Petitioner on May 2, 2011. On May 3, 2011, the Magistrate Judge issued a Report and Recommendation in which she noted that Respondent had not at that time filed a return or other response pleading, and that the time for doing so had not run. Accordingly, the Magistrate Judge recommended that Petitioner's motion for summary judgment be denied without prejudice as premature. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need

not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Petitioner’s motion for summary judgment (ECF No. 14) is denied without prejudice as premature. The § 2254 petition is recommitted to the Magistrate Judge for further pretrial handling.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

June 3, 2011.